

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

GARY OWEN PITSCH,)
) DOCKET NO: PT-1997-42
)
 Appellant,)
)
 -vs-) OPINION and ORDER
)
 THE DEPARTMENT OF REVENUE)
 OF THE STATE OF MONTANA,)
)
 Respondent.)

The State Tax Appeal Board (STAB) elected to hear the above entitled appeal on the record, pursuant to Section 15-2-301(2), MCA. Both parties were provided copies of the transcript of the Bighorn County Tax Appeal Board hearing and were given thirty (30) days to submit additional statements if they wished to do so. Both parties responded with additional statements which are made part of the record. Neither party notified this Board that statements had not been received from the opposing party.

The subject property involved in this appeal is described as follows:

Improvements only, located 2 miles south
of Garryowen, Bighorn County, Montana.
Tax ID #K1355.

For the 1997 tax year, the Department of Revenue (hereinafter DOR) appraised the subject property at a value of \$28,700 for the improvements that are described as two quonset

sheds. The taxpayer appealed to the Bighorn County Tax Appeal Board requesting a reduction in value to \$8,750 for the improvements. The county board denied the appeal, and the taxpayer then appealed that decision to this Board.

The taxpayer contended that the State Tax Appeal Board ruled in March of 1996 that value of these sheds should be \$14,400.

He argued that "rather than doubling in value the last two years they have further depreciated in value, condition, and usage value." (Appeal form) Mr. Pitsch continued that argument in response to this Board setting this matter to be heard on the record. He stated that Bighorn County indicated that the county wide increase in value due to reappraisal was 37.8%, yet these quonset sheds increased 99.3%. Mr. Pitsch added that these structures have continued to depreciate and the doors on one unit would require approximately \$2,000 to repair so they may be closed.

In closing Mr. Pitsch added, "I believe the quonsets in question are much like the horse and buggy prior to the invention of the automobile, during their time they were very necessary and valuable but their time has passed along with their value."

Mr. David Chepulis, appraiser, represented the DOR in this matter. At the hearing before the local board he presented the valuation and appeal history of the subject property, and compared the current value determination with that ordered by this Board in PT-1994-98. He stated that he had been instructed to do three things in that STAB Order: (1) remove the modification code

that charges for a grain package that adds for extra strength to the walls;(2) adjust the condition of the structures from average to fair;(3) apply an economic condition reduction 20%. Mr. Chepulis testified that he had continued those conditions for the 1997 reappraisal except the application of the Economic Condition Factor (ECF) which is not applied to agricultural buildings. The difference, he stated is largely in the change made in the cost tables that reflect the difference between 1992 base year costs and 1996 base year costs. Mr. Chepulis then went on to explain the method of value "phase-in" required by 1997 legislation SB-195. He told the local board "that the average increase in the county or at least in the area is actually 27.8 percent."(Tr pg 7)

It is clear from the property record card submitted by the DOR in response to this hearing on the record that, as Mr. Chepulis stated, the grain modification package and the condition of the structure at fair have been continued for the 1997 reappraisal cycle. There is however a fact that apparently cannot be recognized by the valuation system for these types of structures and that is obsolescence for external factors. These quonsets were constructed during a time when storage of large quantities of grain was reimbursed through a federal commodity storage program. The loss of that program definitely had an impact on the value of the structures. It is not questioned that one would construct a 40 X 140 foot shed for purposes of merely storing a tractor or "200 or 300 bushels of grain."(Taxpayer testimony, tr pg 3)

The method that is in place referred to as the ECF is not applied to agricultural buildings because the DOR does not have sales of such buildings in the sales history file from which the ECF is calculated, and this Board has found that to be proper. There is however a need to recognize obsolescence found at the local level when economic circumstances are obviously impacting value. The quonsets are super adequate for the use that they are now being put, and it was the cessation of the program for which they were built that caused that to come about. The negative external force of losing the federal commodity storage program is apparently incurable for these structures. This is a form of economic obsolescence that needs to be recognized. If that cannot be done through the application of the ECF then it may be recognized through the superadequacy of being built with excess capacity for the current market situation. Mr. Chepulis stated that he had no sales of comparable property that could be used to measure such an impact in the market. The measurement is partially there from what has been recognized in the percentage applied through the ECF.

Based on a review of the record before the Bighorn County Tax Appeal Board and the statements submitted by the taxpayer and the DOR, the Board finds that the taxpayer presented sufficient evidence to support the position that the Bighorn County Tax Appeal

Board's decision was erroneous and therefore sustained the burden on appeal. For the foregoing reasons, the above appeal is hereby granted in part and denied in part and the decision of the Bighorn County Tax Appeal Board is reversed.

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IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Bighorn County by the Assessor of said County at the value for the subject improvements as determined by the DOR with application of a further reduction of twenty percent (20%) for obsolescence caused by this superadequacy.

This opinion constitutes the Board's Findings and Conclusions herein.

DATED this 23rd day of December, 1998.

BY ORDER OF THE
STATE TAX APPEAL BOARD

PATRICK E. McKELVEY, Chairman

(S E A L)

GREGORY A. THORNQUIST, Member

NOTICE: You are entitled to judicial review of this order in accordance with Section 15-2-303(2), MCA. Judicial review may be

obtained by filing a petition in district court within 60 days after the service of this Order.